

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
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Report

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee
Hon. Mary Ann Grilli and Hon. Michael Nash, Co-chairs
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DATE: August 15, 2003

SUBJECT: Child Support: Implementation of New and Revised Governmental Forms by
Local Child Support Agencies (adopt Cal. Rules of Court, rule 5.311)
(Action Required)

Issue Statement

The Department of Child Support Services (DCSS) has encountered long delays in implementing new or revised Judicial Council forms. Because of the complexity of its computer systems, DCSS cannot reprogram those systems to complete the new or revised forms in the month between the forms' availability and their effective date. This has resulted in extended periods during which DCSS and local child support agencies are unable to use the forms then in effect.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2004, adopt rule 5.311 of the California Rules of Court to create a framework for implementation of new and revised governmental child support forms by local child support agencies.

The text of the rule is attached at page 4.

Rationale for Recommendation

The Department of Child Support Services maintains six different automated computer systems for the operation of its local child support agencies. Each local child support agency is affiliated with one of these six computer consortia. Each time a new or revised governmental form is implemented, the Department of Child Support Services must reprogram each of its six systems to complete the form. Because many of the new and revised governmental forms have not been available from the Judicial Council's

publisher until fewer than 30 days before their effective date, local child support agencies have had technical problems implementing new and revised governmental forms.

Currently, some individual courts have entered into informal phase-in arrangements with their respective local DCSS office. Other courts, however, have no phase-in arrangement and routinely reject the local DCSS office's filings. Proposed rule 5.311 would provide a uniform, statewide phase-in implementation period for new or revised forms and give DCSS the necessary lead time to reprogram their computer systems to effectively use these forms. Adoption of this rule would, therefore, improve the administration of governmental child support cases within the court system.

Alternative Actions Considered

The committee considered and rejected the option of making no change in the existing forms implementation practice as this approach would not solve the problem of a lack of sufficient lead time for the state Department of Child Support Services to implement Judicial Council forms.

Comments From Interested Parties

The rule was circulated for comment in the spring 2003 cycle to all courts and to all child support enforcement partners, including the Department of Child Support Services (DCSS), Judicial Stakeholders, the Judicial Council Forms Subcommittee of the Child Support Directors Association (CSDA), child support commissioners, and family law facilitators.

Of the 9 comments received, none opposed the proposed rule's adoption. Seven commentators (the Orange County Bar Association, the Rules and Forms Committee of the Superior Court of Orange County, the Family Law Section of the State Bar of California, a legal clerk, two judicial officers, and a DCSS managing attorney) agreed with the adoption of this proposed rule.

Two commentators (including the CSDA's Judicial Council Forms Subcommittee and a judicial officer) agreed with the proposed adoption of this rule only if it is modified.

The CSDA's Judicial Council Forms Subcommittee recommended that the proposed rule be modified to extend the use of prior versions of the forms for more than six months when the versions are accepted for filing by the court clerk. The committee rejected this proposal as expanding the scope of the proposed rule beyond the narrowly tailored remedy to DCSS's specific technical computer reprogramming problem.

The other commentator proposed that this rule be expanded to apply to all parties in a family support governmental action. The committee rejected this proposal because other parties to the action (typically the custodial or noncustodial parent) have immediate

access to new or revised forms and do not have the same technical programming issues encountered by DCSS.

A chart summarizing the comments and the committee's responses is attached at pages 5–7.

Implementation Requirements and Costs

Courts will incur some costs in copying the forms.

Attachments

Rule 5.311 of the California Rules of Court is adopted, effective January 1, 2004, to read:

Rule 5.311. Implementation of new and revised governmental forms by local child support agencies

(a) [General extended implementation] A local child support agency providing services as required by Family Code section 17400 must implement any new or revised form approved or adopted by the Judicial Council for support actions under Title IV-D of the Social Security Act, and under California statutory provisions concerning these actions, within six months of the effective date of the form. During that six-month period, the local child support agency may properly use and file the immediately prior version of the form.

(b) [Judgment regarding parental obligations] When the local child support agency files a proposed judgment or proposed supplemental judgment in any action using form FL-630, *Judgment Regarding Parental Obligations (Governmental)*, a final judgment or supplemental judgment may be filed on:

(1) The same version of the form that was used with the initial action or that was filed as an amended proposed judgment; or

(2) The most current version of the form, unless there have been amendments to the form that result in substantial changes from the filed version. If the most current version of the form has been substantially changed from the filed version, then the filed version must be used for the final judgment. A substantial change is one that would change the relief granted in a final judgment from that noticed in a proposed or amended proposed judgment.

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Mr. John Cardoza Managing Attorney DCSS - Ventura County	A	N	Agree.	No response required.
2.	Hon. Manuel J. Covarrubias Superior Court of California, County of Ventura	AM	N	1. Modify to allow all parties in a family support governmental action to have six months after the active date of new forms to use prior forms.	1. This rule is narrowly tailored to deal with a specific problem encountered by the Department of Child Support Services. Other users of new forms will have immediate access to the revised forms and will not encounter the technical programming problems of the department.
3.	Hon. Deborah Daniel Commissioner Superior Court of California, County of San Bernardino	A	N	In our county we have allowed additional time for our local DCSS to phase in new forms for the very reasons set forth in this proposal.	Agree. The rule will standardize this type of local practice to accommodate the technology needs of DCSS offices statewide.
4.	Mr. Robert Gerard President Orange County Bar Association	A	Y	This rule would simply allow a six-month transitional period for the use of certain forms by local child support agencies and would—in general—ensure the validity of the prior version of the form if it is used within that six-month period.	No response required.
5.	Hon. Laura J. Masunaga Commissioner Superior Court of California, County of Siskiyou	A	N	Agree.	No response required.
6.	Mr. Ronald L. Bauer Superior Court of California, County of Orange	A	Y	The Rules and Forms Committee of the Orange County Superior Court reviewed this item at their meeting of June 19, 2003, and agree with the	No response required.

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				proposed changes.	
7.	Ms. Vickie Mummert Supervising Legal Clerk II Superior Court of California, County of Stanislaus	A	N	Agree.	No response required.
8.	Ms. Kristy Johnson Secretary CSDA Judicial Council Forms Subcommittee	AM	Y	<ol style="list-style-type: none"> 1. Recommend inserting language in subparagraph (b) as follows to provide for the use of prior versions of forms that may be more than six months old: <ol style="list-style-type: none"> a. Subdivision (b) If the clerk of the court accepts for filing the immediately prior version of the form which exceeds the time period stated in subparagraph (a), that form is valid unless a party demonstrates substantial prejudice due to the use of the prior version of the form. 2. Also recommend adding subparagraph (d) for clarification: <ol style="list-style-type: none"> a. Subdivision (d) The provisions of this rule shall be applicable to all forms, which became effective or were filed on or after January 1, 2003. 	<ol style="list-style-type: none"> 1. <ol style="list-style-type: none"> a. No change to rule. This rule is intended to ensure the validity of the use of the immediately prior version of the form during that six-month period and not to extend its validity beyond the six-month period. 2. <ol style="list-style-type: none"> a. Rule is designed to remedy any implementation problems prospectively, not retroactively.

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
9.	Family Law Section of the State Bar of California	A	Y	Agree.	No response required.